

# **2013 DRAFTING REQUEST**

## **Bill**

Received: **9/16/2013** Received By: **phurley**  
 Wanted: **As time permits** Same as LRB:  
 For: **John Nygren (608) 266-2343** By/Representing: **Jennifer**  
 May Contact: Drafter: **phurley**  
 Subject: **Criminal Law - drugs** Addl. Drafters:  
 Extra Copies:

Submit via email: **YES**  
 Requester's email: **Rep.Nygren@legis.wisconsin.gov**  
 Carbon copy (CC) to:

## **Pre Topic:**

No specific pre topic given

## **Topic:**

Immunity from criminal prosecution for people who seek emergency help

## **Instructions:**

See attached

## **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 9/18/2013	jdyer 9/26/2013	jfrantze 9/26/2013	_____			
/P1	phurley 10/3/2013			_____	mbarman 9/26/2013		
/1		jdyer 10/3/2013	jmurphy 10/3/2013	_____	srose 10/3/2013	sbasford 10/3/2013	

FE Sent For:

<END>

*Not needed*

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/?	phurley 9/18/2013	jdyer 9/26/2013	jfrantze 9/26/2013	_____			
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/P1		10/3 jld	Jim d3	telb	mbarman 9/26/2013		

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/?	phurley	PI 9/25 jld	Jo	9/26 KM			

FE Sent For:

<END>

## DRAFT Good Samaritan Legislation

The proposal will immunize drug possessors/users only for drug possession offenses, but not prevent a Len Bias investigation and prosecution or a vehicular homicide prosecution.

Wis. Stat. s. 961.415 shall be created to read as follows:

(1) Definitions: In this section, "aider" means a person who, in good faith, does any of the following:

(a) Brings another person to an emergency room, hospital, fire station, or other health care facility if the other person is, or the person believes him or her to be, suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog.

(b) Summons a law enforcement officer, ambulance, emergency medical technician, or other health care provider, to assist another person if the other person is, or the person believes him or her to be, suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog.

(c) Dials the telephone number "911" or, in an area in which the telephone number "911" is not available, the number for an emergency medical service provider, to obtain assistance for another person if the other person is, or the person believes him or her to be, suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog.

(2) An aider shall not be charged or prosecuted for possession of a controlled substance or controlled substance analog contrary to Wis. Stat. s. 961.41(3g).

(3) Nothing in this section is intended to interfere with or prevent the investigation, arrest, or prosecution of any person for the delivery, manufacture, or distribution of a controlled substance or controlled substance analog, or a conspiracy to commit any of the foregoing offenses, under this Chapter.

(4) Nothing in this section shall affect liability for any offense that involves activities made dangerous by the consumption of a controlled substance or controlled substance analog, including, but not limited to, violations of [WIS. STAT OWI LAWS AS WELL AS HOMICIDE BY INTOXICATED/NEGLIGENT USE]

**Hurley, Peggy**

**From:** Malcore, Jennifer  
**Sent:** Friday, September 13, 2013 3:20 PM  
**To:** Hurley, Peggy  
**Subject:** Good Samaritan legislation  
**Attachments:** 20130913152346754.pdf

Peggy,

Attached is language for the legislation we are looking at, I believe that SB 215 is too broad and deals with alcohol also, we want this legislation to strictly deal with drugs.

We would also like to include language that will provide deferred prosecution with the option of treatment for persons who call for or receive medical assistance in an overdose situation and language providing individuals, acting in good faith, the legal right to receive, possess, or administer naloxone to an individual suffering from an apparent overdose.

Have a good weekend and let me know if you have any questions next week.

Thank you,

**Jennifer Malcore**

Office of State Representative John Nygren  
Co-Chair, Joint Committee on Finance  
89<sup>th</sup> Assembly District  
309 East, State Capitol  
608.266.2344

ignore  
if there is  
law against  
using Rx on someone  
else

tlc w/ JM 9/13

— stick w/ immu  
from possession

— don't draft deferred pros. stuff for now

— naloxone can be Rx - exempt pros. for sharing  
or improperly using Rx <sup>for naloxone</sup> under emergency circs



State of Wisconsin  
2013 - 2014 LEGISLATURE

CORRECTED  
COPY



LRB-236171  
PJHldph

due  
FRIDAY

2013 BILL

keep

3164/PI

rmnr

9-18-13

2013 SENATE BILL 215

June 11, 2013 - Introduced by Senators LEHMAN, HARRIS, MILLER, T. CULLEN and  
RISSER, cosponsored by Representatives BEWLEY, WRIGHT, C. TAYLOR, KESSLER,  
POPE, DOYLE, OHNSTAD, JOHNSON and A. OTT. Referred to Committee on  
Judiciary and Labor.

✓

✓  
reger

✓  
offenses relating to a  
controlled substance or a  
controlled substance analogy

1

AN ACT to create §39.18 of the statutes; relating to: granting immunity from  
certain criminal prosecutions for a person who seeks aid for another person.

2

Analysis by the Legislative Reference Bureau

This bill provides immunity from certain criminal prosecutions for a person  
(aider) who summons aid for another person the aider believes is suffering an  
overdose of, or other adverse reaction to, alcohol or a controlled substance. Under  
the bill, if an aider brings another person to an emergency room or other health care  
facility or summons police or emergency medical assistance because the aider  
believes the other person is suffering an overdose or other adverse reaction, the aider  
generally has the right to remain anonymous and may leave the scene at any time.

Under the bill, the aider may not be prosecuted for using or possessing alcohol  
or a controlled substance under the circumstances leading to other person's adverse  
reaction. Under the bill, the aider may be required to identify himself or herself and  
may not be allowed to leave if a law enforcement officer, emergency medical  
technician, or other health care provider believes aider poses an imminent risk of  
harm or himself or herself or to another person.

✓

insert  
analysis

The people of the state of Wisconsin, represented in senate and assembly, do  
enact as follows:

961.443

3

SECTION 1. §39.18 of the statutes is created to read:

## SENATE BILL 215

961.443 ← (B) → possession

1 **939.18 Immunity from criminal prosecution** (1) DEFINITIONS. ✓ In this

2 section, "aider" means a person who does any of the following:

3 (a) Brings another person to an emergency room, hospital, fire station, or other  
4 health care facility if the other person is, or the person believes him or her to be,  
5 suffering from an overdose of, or other adverse reaction to, any controlled substance

6 or alcohol. controlled substance analog ✓

7 (b) Summons a law enforcement officer, ambulance, emergency medical  
8 technician, or other health care provider, to assist another person if the other person  
9 is, or the person believes him or her to be, suffering from an overdose of, or other ✓

10 adverse reaction to, any controlled substance or alcohol. controlled substance analog ✓

11 (c) Dials the telephone number "911" or, in an area in which the telephone  
12 number "911" is not available, the number for an emergency medical service  
13 provider, to obtain assistance for another person if the other person is, or the person  
14 believes him or her to be, suffering from an overdose of, or other adverse reaction to, ✓

15 any controlled substance or alcohol. controlled substance analog ✓

16 ~~(2) ANONYMITY AND CONFIDENTIALITY. (a) Except as provided in this paragraph,~~  
17 ~~an aider has the right to remain anonymous. The exercise of that right shall not~~  
18 ~~affect the manner in which a law enforcement officer, emergency medical technician,~~  
19 ~~or other health care provider performs his or her duties. No person may induce or~~  
20 ~~coerce or attempt to induce or coerce an aider who wishes to remain anonymous into~~  
21 ~~revealing his or her identity, unless the person has reasonable cause to suspect that~~  
22 ~~the aider poses an imminent risk of harm to himself or herself or to another person.~~

23 (b) An aider may leave the presence of the law enforcement officer, emergency  
24 medical technician, or hospital staff member at any time, and no person may follow



## SENATE BILL 215

1 or pursue the aider, unless the person has reasonable cause to suspect that the aider  
2 poses an imminent risk of harm to himself or herself or to another person.

3 (8) IMMUNITY FROM CRIMINAL PROSECUTION. An aider is immune from prosecution

4 ~~for the possession or use of alcohol, or~~ the possession or use of a controlled substance,  
5 under the circumstances surrounding or leading to his or her commission of an act  
6 described in sub. (1).

7 (END)

under s. 961.41(3g) for

Insert 3.6

or a controlled  
substance  
analog

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3164/?ins

.....

INSERT ANALYSIS:

This bill provides immunity from certain criminal prosecutions for a person (aider) who brings another person to an emergency room or other health facility, who summons police or emergency medical assistance, or who administers aid to another person because the aider believes the other person is suffering from an overdose or other adverse reaction to a controlled substance or <sup>a</sup>controlled substance analog. ✓ \*

Under the bill, the aider may not be prosecuted for possession of a controlled substance or a controlled substance analog under the circumstances that led him or her to summon or provide emergency assistance.

Under the bill, a person may not be prosecuted for possessing <sup>✓</sup>naloxone or for administering or delivering naloxone to another person if he or she administered naloxone to the other person with the good faith belief<sup>s</sup> that the other person was suffering from an overdose or an adverse reaction to a controlled substance or a controlled substance analog and that it was necessary to deliver or administer the naloxone in order to save the other person's life. ✓ \*

INSERT 3.6:

SECTION 1. 961.447 <sup>✓</sup> of the statutes is created to read:

<sup>✓</sup>961.447 Immunity from criminal prosecution; emergency  
administration. (1) A person is immune from criminal prosecution for possessing  
naloxone or for administering or delivering naloxone to another person if he or she  
administered or delivered the naloxone to another person because he or she believed,  
in good faith, that the other person was suffering from an overdose or adverse  
reaction to a controlled substance or <sup>a</sup>controlled substance analog and believed, in  
good faith, that delivering or administering naloxone to the person was necessary to  
save the life of the other person. ✓ \*

(end ins 3-6)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3164/T1

PJH:jld:jf

keep rnr

2013 BILL

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

today  
(no charges by  
from 1/11 toll)

Regen

- ✓
- 1 AN ACT *to create* 961.443 and 961.447 of the statutes; **relating to:** granting  
2 immunity from certain criminal prosecutions for offenses relating to a  
3 controlled substance or a controlled substance analog. ✓

---

***Analysis by the Legislative Reference Bureau***

This bill provides immunity from certain criminal prosecutions for a person (aider) who brings another person to an emergency room or other health facility, who summons police or emergency medical assistance, or who administers aid to another person because the aider believes the other person is suffering from an overdose or other adverse reaction to a controlled substance or a controlled substance analog.

Under the bill, the aider may not be prosecuted for possession of a controlled substance or a controlled substance analog under the circumstances that led him or her to summon or provide emergency assistance.

Under the bill, a person may not be prosecuted for possessing naloxone or for administering or delivering naloxone to another person if he or she administered naloxone to the other person with the good faith belief that the other person was suffering from an overdose or an adverse reaction to a controlled substance or a controlled substance analog and that it was necessary to deliver or administer the naloxone in order to save the other person's life.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 961.443 of the statutes is created to read:

2           **961.443   Immunity from criminal prosecution; possession.   (1)**

3           DEFINITIONS. In this section, “aider” means a person who does any of the following:

4           (a) Brings another person to an emergency room, hospital, fire station, or other  
5           health care facility if the other person is, or the person believes him or her to be,  
6           suffering from an overdose of, or other adverse reaction to, any controlled substance  
7           or controlled substance analog.

8           (b) Summons a law enforcement officer, ambulance, emergency medical  
9           technician, or other health care provider, to assist another person if the other person  
10          is, or the person believes him or her to be, suffering from an overdose of, or other  
11          adverse reaction to, any controlled substance or controlled substance analog.

12          (c) Dials the telephone number “911” or, in an area in which the telephone  
13          number “911” is not available, the number for an emergency medical service  
14          provider, to obtain assistance for another person if the other person is, or the person  
15          believes him or her to be, suffering from an overdose of, or other adverse reaction to,  
16          any controlled substance or controlled substance analog.

17          **(2) IMMUNITY FROM CRIMINAL PROSECUTION.** An aider is immune from prosecution  
18          under s. 961.41 (3g) for the possession of a controlled substance or a controlled  
19          substance analog, under the circumstances surrounding or leading to his or her  
20          commission of an act described in sub. (1).

21          **SECTION 2.** 961.447 of the statutes is created to read:

22          **961.447   Immunity from criminal prosecution; emergency**  
23          **administration.** A person is immune from criminal prosecution for possessing  
24          naloxone or for administering or delivering naloxone to another person if he or she  
25          administered or delivered the naloxone to another person because he or she believed,

1 in good faith, that the other person was suffering from an overdose or adverse  
2 reaction to a controlled substance or controlled substance analog and believed, in  
3 good faith, that delivering or administering naloxone to the person was necessary to  
4 save the life of the other person.

5 (END)

**Basford, Sarah**

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**From:** Malcore, Jennifer  
**Sent:** Thursday, October 03, 2013 2:02 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -3164/1 Topic: Immunity from criminal prosecution for people who seek emergency help

Please rush, would like to send this for co-sponsorship tomorrow.

Thank you very much.

Please Jacket LRB -3164/1 for the ASSEMBLY.